

KFTC imposes measures on Apple Korea **for obstructing its investigation**

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Anti-Monopoly Division (Service)

On June 16, 2016, the KFTC conducted on-site investigations into Apple Korea over allegations that it violated the Monopoly Regulation and Fair Trade Act ("MRFTA") by interfering with business activities of the country's three mobile carriers.

During the KFTC's first investigation from June 16 to 24, 2016, Apple blocked internet access and did not restore it. While conducting the on-site investigation on June 16, 2016, the KFTC clearly notified that any data including PC and e-mail data of the division in charge of marketing for mobile carriers should not be deleted, altered, damaged, or concealed. Although the KFTC investigator asked for a swift recovery through identifying the cause of the network disconnection, Apple didn't take any measure. In particular, the KFTC couldn't access data in two websites "AMFT"* (Apple Marketing Funds Tracker) and "meeting room"**, which were necessary for the KFTC to confirm allegations of Apple's interference with the business activities of the mobile carriers.

* Website that manages the status of contracts made with domestic mobile carriers, execution details of the advertising fund, and data on the status of the fund.

** Website that manages data that indicates whether an advertisement of a domestic mobile carrier is approved, canceled, or declined.

In addition, Apple refused to submit documents related to network disruption that took place on June 23, 2016 to the KFTC. The KFTC asked Apple to submit documents including availability of programs running on networks or clouds, timing and cause of network disruption and person(s) in charge of the network. However, the company refused to submit the required documents despite having received urgent requests from the KFTC in July 2016 and March 2017 respectively.

From November 20 to 23, 2017, the KFTC carried out the second round of on-site investigation into Apple Korea over allegations it obstructed the first round of investigation in 2016 and interfered with the business activities of the mobile carriers, which constitutes violation of the MRFTA. During the 2017 investigation, an Apple executive physically deterred investigators' entrance into office by pulling their arms and delaying the investigation for about 30 minutes.

Hence, the KFTC decided to impose a KRW 200 million fine on Apple Korea for taking down the network and refusing to restore access and another fine of KRW 100 million for failing to submit the requested documents. In addition, the Commission would refer Apple Korea and one of its executives to the prosecution on charges of obstructing and delaying the on-site investigations on purpose.

This case holds significance in that the KFTC took strong enforcement action against a company for obstructing investigation based on a "zero-tolerance" policy, sounding a warning against companies impeding the KFTC's investigation into unfair business practices. Considering the wide-spread adoption of computerized work practices, this case is notable as the first case where the KFTC sanctioned an investigated company for blocking access to server-stored data.

Moving forward, the KFTC will continue to ensure the defense rights for investigated companies under the due process, while taking stern actions against practices that hamper the investigation.

**The Korean text of the documents is confirmed to be authentic and English version is only for reference*